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MAILED

SEP 09 2009

OFFICE OF PETITIONS

In re Application of :
David Cantanzaro :
Application No. 09/505,791 :
Filed: February 17, 2000 :
Attorney Docket No. None :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee on or before January 7, 2002, as required by the Notice of Allowance and Fee(s) Due mailed October 5, 2001 which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 8, 2002. A Notice of Abandonment was mailed October 28, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition lacks item (3). Although, the petitioner asserts that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional due to "extreme economic hardship", the petitioner did not

provide a sufficient showing of financial difficulty. The petitioner submitted supporting documentation in the form of an IRS e-file Signature Authorization form from 2002 and Schedule C – Profit or Loss From Business forms from tax return years; 2003, 2004, 2005, 2006 and 2007. However, the complete tax return for the above mentioned years was not submitted. For example, Schedule C is a portion of Form 1040, for that reason both forms must be submitted.

Further, a complete showing that the entire delay in filing the required reply from October 5, 2001 to the due date for the reply, January 7, 2002, until the filing of a grantable petition pursuant to 37 CFR 1.137(b), July 1, 2008, must be explained. Such a showing must be supported by a complete explanation of the applicant's financial condition during the entire period which must include income, expenses, assets, credit and obligations. The applicant is reminded to submit redacted copies of the above mentioned documents removing all confidential information such as a social security number and so forth.

While the USPTO is not unsympathetic to the applicant's financial situation, the petitioner has not met his burden of proof to establish to the satisfaction of the Director that the entire delay in prosecution was herein unintentional within the meaning of 37 CFR 1.137(b).


Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.



David Buecy
Petitions Examiner
Office of Petitions